

Title 2. Administration.

Division 3. State Property Operations.

Chapter 1. State Lands Commission.

Article 2.9 Exploration Permits

§2100.01-2100.10

§ 2100.01 Purpose and Applicability

- a. The purpose of the regulations in Title 2, Division 3, Chapter 1, Article 2.9, is to establish conditions to ensure that geophysical surveys performed on State lands, including granted and ungranted tidelands and submerged lands and the beds of navigable waterways, address and minimize potential impacts to aquatic life or to the environment as required by statute.
- b. This article shall apply to all persons conducting geophysical surveys on all State lands under the jurisdiction of the California State Lands Commission or on legislatively granted tidelands and submerged lands.
- c. Notwithstanding subsection (b) or section 2100.03, this article shall not apply to the following activities:
 1. Geophysical surveys:
 - A. using passive equipment as the survey's only method of data collection;
 - B. using remotely operated vehicles or autonomous underwater vehicles, unless their operation entails the use of low- or high-energy geophysical equipment for the purposes of conducting geophysical surveys; or
 - C. performed in support of dredging to maintain or increase the depth of navigation channels, anchorages, or berthing areas as described in subdivision (b) of section 6212.3 of the Public Resources Code.

Note: Authority: Sections 6106, 6108, 6212.3, 6301, and 6826, Public Resources Code.
Reference: Sections 6212.3 and 6826, Public Resources Code.

§ 2100.02 Definitions

As used in these regulations, the following terms have the following meanings:

- a. "Commission" means the California State Lands Commission.
- b. "Geophysical surveys" means activities involving the systematic collection of geophysical data for spatial studies by reflecting sound or pressure waves off of the ocean floor and analyzing such data to develop an approximation of the features of the surface and subsurface of the ocean floor. Geophysical surveys may include seismic, gravity, magnetic, vibratory, electrical, and geochemical methods of measuring and recording spatial data associated with archaeological/cultural/paleontological research, infrastructure inspections, dredging, marine biology, oceanography, subsurface geology, and related purposes.
- c. "High-energy" means geophysical equipment that produces acoustic energy and is in one of the following categories: air or water compression devices (e.g., airgun and water gun).
- d. "Inland" means non-marine waters overlying state sovereign land or dry surface lands under the jurisdiction of the Commission.
- e. "Low-energy" means geophysical equipment that produces acoustic energy and falls into one of the following categories: subbottom profilers (e.g., mini-sparkers, boomers, chirp, and general subbottom profiler systems), echosounders (e.g., single beam echosounders, multibeam echosounders, and fathometers), side-scan sonars, seismic vibration, and multi-component systems (i.e., containing two or more complementary equipment types).
- f. "Low-Energy OGPP MND" means the Low Energy Offshore Geophysical Permit Program Update Mitigated Negative Declaration the Commission adopted on September 20, 2013, and its addendum adopted on April 23, 2014.
- g. "Marine waters" means those waters subject to tidal influence, except for waters in the Sacramento-San Joaquin Rivers and Delta upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet.
- h. "OGPP" means the Offshore Geophysical Permit Program.
- i. "Passive" means geophysical equipment that does not produce acoustic or pressure wave energy, including, but not limited to, magnetometers, gravity meters, fluorometers, optical sensors, or water sampling.

- j. "Person" means an individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. "Person" also includes any city, county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.
- k. "School lands" means lands granted to the State for the purpose of supporting public schools, including but not limited to those granted by Acts of Congress on March 3, 1853 (Ch. 145, 10 Stat. 244), and January 25, 1927 (Ch. 57, 44 Stat. 1026), and indemnity school lands or in-lieu lands the federal government conveyed to the State.
- l. "Sovereign lands" means the lands the State holds in trust for the benefit of the people of California subject to the common law Public Trust Doctrine and includes the beds of California's navigable waterways, as well as the State's tide and submerged lands along the coastline and offshore islands from the mean high tide line to three nautical miles offshore.

Note: Authority: Sections 6106, 6108, 6212.3, 6301, and 6826, Public Resources Code.
Reference: Sections 6212.3 and 6826, Public Resources Code.

§ 2100.03 Requirement for a Permit

Unless inapplicable under section 2100.01, subdivision (c) of this article, all persons conducting geophysical surveys on lands under the jurisdiction of the Commission or on legislatively granted tidelands and submerged lands must obtain a permit from the Commission prior to commencing survey activities.

Note: Authority: Sections 6106, 6108, 6212.3, 6301, and 6826, Public Resources Code.
Reference: Sections 6212.3 and 6826, Public Resources Code.

§ 2100.04 Permit Types

The Commission shall issue the following permit types:

- a. General Offshore Geophysical Survey Permit
 - 1. This non-exclusive permit authorizes general geophysical survey activity during the permit term. Geophysical surveys conducted under this permit shall fall within the scope of the Low-Energy OGPP MND, which disclosed and analyzed the

environmental impacts of low-energy geophysical surveys and identified feasible mitigation measures to reduce or avoid environmental impacts found to be potentially significant. Operational requirements and conditions are found in the “General Offshore Geophysical Survey Permit,” dated March 7, 2016, and incorporated herein by reference in its entirety.

2. Geophysical surveys conducted under this permit occur in marine waters, excluding San Francisco Bay and inland waterways, between the California-Mexico and California-Oregon borders out to three nautical miles.
3. This permit authorizes the collection of geophysical data utilizing low-energy geophysical survey equipment.

b. General Inland Geophysical Survey Permit

1. This non-exclusive permit is intended for geophysical surveys conducted on inland waterways and dry surface lands under the jurisdiction of the Commission.
2. This permit authorizes the collection of geophysical data utilizing low-energy geophysical survey equipment in a manner qualifying for a categorical exemption under the California Environmental Quality Act for Class 6: Information Collection, California Code of Regulations, Title 2, section 2905, subdivision (e)(3).
3. Operational requirements and conditions are found in the “General Inland Geophysical Survey Permit,” dated March 7, 2016, and incorporated herein by reference in its entirety.

c. Project-Specific Geophysical Survey Permit

1. This non-exclusive permit authorizes geophysical survey activity related to a specifically defined survey or surveys. Geophysical surveys conducted under this permit occur on State school lands and sovereign lands including inland waterways, ports and harbors, and marine waters between the California-Mexico and California-Oregon borders out to three nautical miles. This permit covers geophysical survey activities not covered by other permits in this section.
2. Geophysical surveys conducted under this permit may include high-energy geophysical surveys and low-energy geophysical surveys that do not fall within the scope of the Low-Energy OGPP MND. Issuance of a Project-Specific

Geophysical Survey Permit is subject to compliance with the California Environmental Quality Act (California Pub. Resources Code, §§ 21000–21178).

3. Operational requirements and conditions, where applicable, are found in the “Project-Specific Geophysical Survey Permit,” dated March 7, 2016, and incorporated herein by reference in its entirety.

Note: Authority: Sections 6106, 6108, 6212.3, 6301, and 6826, Public Resources Code.
Reference: Sections 6212.3 and 6826, Public Resources Code.

§ 2100.05 Permit Term

- a. General Offshore Geophysical Survey Permits will be valid for up to five years from the date authorized by the Commission.
- b. General Inland Geophysical Survey Permits will be valid for up to five years from the date authorized by the Commission.
- c. Project-Specific Geophysical Survey Permits will be valid for the length of the proposed geophysical survey, not to exceed one year from the date authorized by the Commission.

Note: Authority: Sections 6106, 6108, 6212.3, 6301, and 6826, Public Resources Code.
Reference: Section 6212.3, Public Resources Code.

§ 2100.05 Permit Application and Fees

Informal comment period—note to stakeholders: This section will address the permit application costs and the Commission’s associated costs to manage the permit. The Commission is currently revising and streamlining its internal processes for permit approval and management. Because this process is ongoing, and in the interest of seeking stakeholder comment on the remaining proposed rules, this section is being withheld at this time. The regulations submitted for formal rulemaking will include cost details within this section.

§ 2100.06 Bond

- a. Prior to the effective date of the issued permit, the permittee shall furnish and maintain, until released by the Commission, a bond or letter of credit in the sum of fifty-thousand thousand dollars (\$50,000.00), in favor of the State, for its exclusive

use and benefit, to guarantee the faithful performance by the permittee of the permit's terms and conditions and satisfaction of third-party damage claims. The bond or letter of credit shall by its own terms remain in effect until at least one hundred fifty (150) days after the termination date of the permit, unless earlier released by the Commission.

- b. A federal, State, or local agency permittee may substitute the requirements of this section by demonstrating evidence of self-bonding or other method of surety sufficient to guarantee performance under the permit.

Note: Authority: Section 6108, Public Resources Code.

Reference: Sections 6212.3, 6301 and 6826, Public Resources Code.

§ 2100.07 Geophysical Operations

Geophysical surveys shall be conducted in accordance with the terms and restrictions within the permit issued by the Commission and a mitigation monitoring program, if applicable.

Note: Authority: Sections 6106, 6108, 6212.3, 6301, and 6826, Public Resources Code.

Reference: Sections 6212.3 and 6826, Public Resources Code.

§ 2100.08 Public Notice of Survey Activity in Marine Waters

- a. Pre-Survey Notification for Geophysical Surveys in Marine Waters.
 - 1. No less than twenty-one (21) calendar days prior to the commencement of a geophysical survey in marine waters, the permittee shall provide notice of the survey activity to:
 - A. The Commission;
 - B. United States Coast Guard's Local Notice to Mariners; and
 - C. Harbormasters' offices of regional harbors and dive shops in coastal locations adjacent to the proposed offshore survey operations (by fax, email, or in person to operator of the shop).
 - 2. The permittee shall use best efforts to notify the parties listed in this subdivision (a)(1) and any other notified persons of substantial addition, modification,

deviation, delay, or cancellation, concerning the survey area or survey dates, in the original notice. The permittee shall notify the Commission of such modifications or delays prior to their occurrence.

3. Emergency Notification: If, due to an emergency affecting public health or safety or harm to the environment, a permittee must perform a permitted geophysical survey and cannot provide the Commission with twenty-one (21) days notice, the permittee shall use best efforts to notify the Commission and the parties listed in this section as quickly as practicable.

b. Pre-Survey Notification for Inland Geophysical Surveys.

1. No less than five calendar days prior to the commencement of Inland geophysical activities, the permittee shall provide notice of the survey activity to the Commission.

c. Survey Cancellation.

1. Upon survey postponement or cancellation by the permittee or by direction of the Commission pursuant to the permit, the permittee shall re-notify all parties identified under subdivision (a)(1) of this section with the cancellation or new survey date.

d. Commission Notification.

1. The Commission shall operate and maintain an electronic mailing list or equivalent communication method to notify the public of scheduled geophysical surveys. The notifications shall include information on the date, type, location, and duration of the scheduled geophysical survey.
2. The Commission shall include information on its website, www.slc.ca.gov, informing the public how to subscribe and unsubscribe from geophysical survey notifications.
3. Failure by the Commission to timely communicate information as provided in subparagraph (d) shall not be a basis for postponing or cancelling a permitted survey if the permittee has fully complied with the requirements of subparagraph (a) of this section.

Note: Authority: Sections 6106, 6108, 6212.3, 6301, and 6826, Public Resources Code.

Reference: Sections 6212.3 and 6826, Public Resources Code.

§ 2100.09 Geophysical Permit Suspension or Revocation

- a. Violation of the requirements of this article, or the terms and conditions of a permit, may result in the suspension or revocation of a geophysical survey permit.
 - 1. A suspension shall be effective upon receipt by the permittee of written notice by Commission staff which shall indicate: (1) the extent of the suspension; (2) the reasons for the suspension; and (3) any corrective or preventive measures to be taken by the permittee deemed necessary by Commission staff to comply with the requirements of this article.
 - 2. The permittee shall take immediate action to comply with the suspension and address the violation. The permittee may request a hearing before the Commission in order to present information relevant to whether the permit should be reinstated, modified, or revoked.
 - 3. A permit revocation shall be effective after a hearing before the Commission and adoption of such revocation by the Commission.
- b. Any suspension or revocation of the permittee's permit shall not be a basis for any claim for damages against the State of California.

Note: Authority: Sections 6106, 6108, 6212.3, 6301, and 6826, Public Resources Code.
Reference: Sections 6212.3 and 6826, Public Resources Code.

§ 2100.10 Cease and Desist Authority

- a. The Commission shall maintain on its website information regarding how the public can report unpermitted geophysical activity, report permit violations, and inquire on the status of pending survey activity.
- b. Commission staff shall send via mail a cease and desist letter to persons conducting geophysical surveys without a permit, as required under section 2100.01 of this article.
 - 1. To the extent known or reported to the Commission, a cease and desist letter shall include, at a minimum;

- A. The date, time, and location of the unpermitted geophysical survey, if known;
- B. A demand to cease any unpermitted survey activity; and
- C. Information on how persons can obtain and submit an application for a geophysical survey permit.

Note: Authority: Sections 6106, 6108, 6212.3, 6301, and 6826, Public Resources Code.
Reference: Sections 6212.3 and 6826, Public Resources Code.